

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

DANIEL HAWKINS,

Plaintiff,

v.

MIAMI COUNTY EMERGENCY
MANAGEMENT AGENCY,

Defendant.

No. _____

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff Daniel Hawkins, through his counsel, alleges as follows:

NATURE OF THE ACTION

1. From April 2017 through February 2019, Mr. Hawkins excelled in his position as administrative assistant with Miami County Emergency Management Agency (“EMA”). He was promoted from part-time to full-time, the intended successor to the director position, and received exemplary performance reviews. These conditions abruptly changed when he came out to his supervisor as a gay man and, days after disclosing his sexuality, began to receive disciplinary actions. When he contested these actions as discriminatory, he was fired. EMA’s conduct of subjecting Mr. Hawkins to unwarranted disciplinary actions and ultimately terminating his employment is unlawful sexual orientation discrimination and retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and § 1343.

3. This action is authorized and brought pursuant to 42 U.S.C. §§ 2000e-5 and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981(a).

4. Venue is proper under 28 U.S.C. § 1391(b)(1)(2) because the events giving rise to this action occurred in this district.

ADMINISTRATIVE PROCEEDINGS

5. Mr. Hawkins timely filed his charge of discrimination with the Equal Employment Opportunity Commission and received his Notice of Right to Sue on February 1, 2022. **Exhibit A.**

6. This action is timely commenced within ninety (90) days of Mr. Hawkins receipt of his Notice of Right to Sue.

PARTIES

7. Mr. Hawkins is a resident of Indiana and resides in Huntington, Indiana within the Northern District of Indiana.

8. At all times relevant to this action, Mr. Hawkins was an employee within the meaning of Title VII.

9. Miami County Emergency Management Agency is a division of Miami County local government with offices located at 78 McKinstry Ave. Peru, IN 46970 within the Northern District of Indiana. At all relevant times, EMA was an employer within the meaning of Title VII.

FACTUAL ALLEGATIONS

10. After serving as an EMA volunteer, Mr. Hawkins was hired as part-time administrative assistant to EMA Director Kristopher Marks in April 2017.

11. Mr. Hawkins was the only administrative assistant and worked closely with Mr. Marks, his direct supervisor and only colleague within the agency.

12. EMA is primarily responsible for facilitating emergency response and preparedness duties for the county, including coordinating volunteer response teams and working with local

emergency services and first responders.

13. As administrative assistant, Mr. Hawkins' main duties included coordinating trainings, working with volunteer units, maintaining Director Marks' schedule, keeping minutes at agency meetings, and other administrative duties like answering phones.

14. Mr. Hawkins was typically not responsible for emergency response duties outside of normal business hours, though often volunteered to make himself available outside of his required hours.

15. Mr. Hawkins was successful in his position and, at Director Marks' urging, was promoted to full-time administrative assistant in January 2019.

16. Mr. Hawkins intended to make a career with EMA. He and Director Marks were hopeful that Mr. Hawkins would ultimately succeed Marks as director.

17. When Mr. Hawkins was hired, he was known to his employer as a heterosexual man.

18. Mr. Hawkins is a gay man but was hesitant to come out at work because of anti-gay sentiments in the office. For example, before disclosing his sexuality Mr. Marks made a comment expressing his hope that Mr. Hawkins not "turn funny on him." Mr. Hawkins understood "funny" to mean gay.

19. Ultimately, Mr. Hawkins decided to live authentically at work shortly after receiving his promotion in January 2019.

20. Mr. Hawkins disclosed his sexuality in a February 2019 letter to Mr. Marks, where he expressed his hope that his decision to come out would not impact their productive working relationship.

21. The following day, Marks sent Mr. Hawkins a text message that he was very upset and would not be coming into the office that day. Mr. Hawkins understood this message to mean that

Mr. Marks was upset about his letter and disclosure.

22. Around this time, Mr. Hawkins also notified Miami County human resources that he was moving from Peru, Indiana to Huntington, Indiana and provided his new address for payroll purposes.

23. Marks' attitude towards Mr. Hawkins changed immediately after Mr. Hawkins' disclosed his sexuality. Marks became less communicative, reticent to work with Mr. Hawkins, and began removing Mr. Hawkins' typical job duties.

24. Within a month of coming out, Mr. Hawkins received two disciplinary actions—the first he had receiving during his tenure at EMA.

25. On March 1, 2019, Mr. Hawkins protested these actions to Mr. Marks and the county auditor as discriminatory.

26. He followed his informal complaints of discrimination with a formal internal complaint of sexual orientation discrimination on April 1, 2019.

27. On April 5, 2019, his employment was terminated without a stated reason.

28. In granting Mr. Hawkins unemployment compensation benefits, the Indiana Department of Workforce Development determined that his termination was without cause.

29. EMA's actions have caused Mr. Hawkins economic and emotional damages, including but not limited to lost earnings, lost benefits, lost employment opportunities, humiliation, emotional distress, and mental anguish, the full extent of which is not yet known.

JURY DEMAND

30. Mr. Hawkins demands a trial by jury in this action.

COUNT I:
VIOLATION OF TITLE VII- SEX DISCRIMINATION

31. The foregoing paragraphs are incorporated as though fully stated herein.
32. EMA subjected Mr. Hawkins to adverse employment actions—including the removal of work, the issuance of disciplinary actions, and termination—because Mr. Hawkins is a gay man in violation of Title VII’s prohibition on sex discrimination.
33. EMA’s actions and omissions described in this complaint constitute intentional sex discrimination that have caused Mr. Hawkins pecuniary and emotional harm.

COUNT II:
VIOLATION OF TITLE VII-RETALIATION

34. The foregoing paragraphs are incorporated as though fully stated herein.
35. Mr. Hawkins’ March 2019 and April 2019 complaints of sexual orientation discrimination are protected activities.
36. EMA retaliated against Mr. Hawkins for engaging in these protected activities by terminating his employment in violation of Title VII’s anti-retaliation clause.
37. EMA’s retaliatory actions have caused Mr. Hawkins pecuniary and emotional harm.

REQUEST FOR RELIEF

WHEREFORE, Mr. Hawkins respectfully requests that the Court enter judgment in his favor and against the defendant and award the following relief:

- A. Declaring EMA’s conduct to be in violation of Title VII;
- B. Award Mr. Hawkins all earnings together with other benefits to which he is entitled, including but not limited to wages and other lost benefits, with prejudgment interest;
- C. Award Mr. Hawkins compensatory damages due to defendant’s conduct that caused pain and suffering;

- D. Award Mr. Hawkins punitive damages due to the defendant's willful and/or reckless disregard for Mr. Hawkins's statutorily protected rights;
- E. Award interest as allowed by law;
- F. Award Mr. Hawkins costs and reasonable attorneys' fees of this action; and
- G. Grant such other relief as this Court may deem just and proper.

Respectfully submitted,

/s/Kathleen Bensberg

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